

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

HARVEY H. JAY, M.D.,

Plaintiff,

v.

SPECTRUM BRANDS HOLDINGS, INC.,
SPECTRUM BRANDS, INC., and
SHASER, INC.,

Defendants.

No. 1:13-cv-8137-LTS-DCF

NOTICE OF MOTION

Pursuant to Section 17 of the Protective Order (Dkt. No. 57), and for the reasons set forth in the accompanying Memorandum of Law, Plaintiff Harvey H. Jay respectfully moves the Court to strike Defendants’ “Highly Confidential—Attorneys’ Eyes Only” (“AEO”) designations listed below and to enforce Section 4 of the Protective Order by requiring Defendants’ to reassess all of their AEO designations. Plaintiff challenged certain AEO designations in letters to Defendants dated July 28 and August 18, 2015. To date, Defendants have not substantively responded to Plaintiff’s letters. Because Defendants’ have failed to change the AEO designations within 10 days, this Motion is proper. *See* Protective Order, § 17 (“If the requested change in designation is not agreed to within ten (10) days after the request is made, the party seeking the change may move for appropriate relief.”).

WHEREFORE, Plaintiff respectfully requests this Court to:

1. Strike the AEO designations from the Deposition Transcript of Richard Lee dated June 25, 2015 and the Deposition Transcript of Daniel Roth dated July 1, 2015;

2. Strike the AEO designations from the documents challenged by Plaintiff, including SPECT-00006675-SPECT-00007104 (photographs of skin with hairs); SPECT-00083174 (Jay '267 Patent); SPECT-00060409 (Jay '308 Patent); SPECT-00083206 and SPECT-00060400 (Jay '542 Patent); SPECT-00060422 (Jay '141 Patent); SPECT-00060436 (Jay '316 Patent); SPECT-00060448 (Jay '330 Patent); SPECT-00157009 (Jay '641 Patent); SPECT-00166436 (Jay '028 Patent); SPECT-00030957 (Wikipedia); SPECT-00030947 (Wikipedia); SPECT-00030963 (www.wayne.edu); SPECT-00030810 (Journal of Biomedical Optics); SPECT-00026574 (Investigative Ophthalmology & Visual Science Journal); SPECT-00177951 (Journal of Quantitative Spectroscopy & Radiative Transfer); SPECT-00177933 (World Applied Sciences Journal); SPECT-00032944 (Journal of Cosmetic Surgery & Medicine); SPECT-00038302 (Encyclopedia of Laser Physics and Technology); SPECT-00057105 (Lasers in Surgery and Medicine); SPECT-00060888 (Journal of Cosmetic Dermatology); and
3. Order Defendants' to reassess in good faith all of the AEO designations in their document productions.

Dated: September 14, 2015

Respectfully submitted,

DILWORTH PAXSON LLP

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